

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

COREY SMITH,)	
)	
Plaintiff,)	
)	
v.)	Case No. 22-cv-142-JAR
)	
HYSTER-YALE GROUP, INC., a foreign)	
for profit business corporation; YALE)	
MATERIALS HANDLING CORP., a)	
foreign for profit business corporation,)	
)	
Defendants.)	
)	

NOTICE OF REMOVAL

The Defendant, Hyster-Yale Group, Inc. (“Hyster-Yale”), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 and LCvR 81.2, hereby removes the above-styled action from the District Court of Muskogee County, Oklahoma to the United States District Court for the Eastern District of Oklahoma. In support of this removal, Hyster-Yale states as follows:

1. On December 13, 2021, Smith initiated the present action against Hyster-Yale and Yale Materials Handling Corp. in the District Court of Muskogee County, Oklahoma, Case No. CJ-2021-312. Pursuant to LCvR 81.2, a true and correct copy of the Muskogee County District Court Docket is attached hereto as Exhibit 1.

2. The Plaintiff, Corey Smith (“Smith”), seeks damages from the Defendants for injuries he allegedly sustained from a fire that occurred at a Georgia-Pacific paper plant in Muskogee, Oklahoma on May 13, 2019. A true and correct copy of the Petition is attached hereto at Exhibit 2.

3. This action is removable because it is a civil action “of which the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a). Specifically, this Court has original subject matter jurisdiction under 28 U.S.C. § 1332(a) because this lawsuit is a civil action between citizens of different states and the amount of controversy exceeds \$75,000.00.

4. Complete diversity exists between the parties. As pled, Smith is and was a citizen of Oklahoma at all relevant times. *See* Exhibit 2 at p. 1, ¶ 1. Yale Materials Handling Corp. is not and was not a legal entity at the time Smith’s state court Petition was filed or at the time of this removal. Rather, Yale Materials Handling Corp. is a trade name for Hyster-Yale. Hyster-Yale is now, and at the time of filing of this action, a Delaware corporation with its principal place of business in Cleveland, Ohio.

5. The amount-in-controversy satisfies the jurisdictional requirement. Smith alleges to have suffered damages in excess of \$75,000.00. *See* Exhibit 2 at pp. 4-7, ¶¶ 25, 33, 39, 42.

6. The United States District Court for the Eastern District of Oklahoma encompasses the geographic area of the District Court of Muskogee County, Oklahoma. Accordingly, removal to this judicial district is proper under 28 U.S.C. § 116(b).

7. Hyster-Yale’s Notice of Removal is timely under 28 U.S.C. § 1446(b)(1). Hyster-Yale was served with the Summons and Petition on April 18, 2022. True and correct copies of the Summons and the Returned Summons for Hyster-Yale are attached hereto as Exhibit 3 and Exhibit 4, respectively. Yale Materials Handling Corp. was served with the Summons and Petition through the Oklahoma Secretary of State on April 20, 2022. True

and correct copies of the Summons and Returned Summons for Yale Materials Handling Corp. is attached hereto as Exhibit 5 and Exhibit 6, respectively. Hyster-Yale files this Notice of Removal within three weeks of receiving the initial pleading in this case.

8. As previously addressed, Yale Materials Handling Corp. is not a separate legal entity capable of being sued because it is a non-legal entity and trade name of Hyster-Yale. Smith effectively sued Hyster-Yale under two names: its correct legal name and its trade name. Because Yale Materials Handling Corp. is merely another name for Hyster-Yale, there is no separate defendant from which joinder or consent for removal is required under 28 U.S.C. § 1446(b)(2)(A).

9. In accordance with 28 U.S.C. § 1446(d), Hyster-Yale is serving a copy of this Notice of Removal upon Smith and is filing a copy of this Notice with the Court Clerk of Muskogee County, Oklahoma, where this action is currently pending.

10. Hyster-Yale hereby demands a jury trial.

WHEREFORE, Hyster-Yale respectfully requests that the Court take jurisdiction of this action and issue all necessary orders and process to remove this action from the District Court of Muskogee County, Oklahoma to the United States District Court for the Eastern District of Oklahoma.

Respectfully submitted,

/s/ Rachal A. Lisle

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***Attorneys for Defendant,
Hyster-Yale Group, Inc.***

CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the above and foregoing document was mailed, via electronic mail and U.S. First Class Mail, on this 9th day of May 2022, to the following:

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/s/ Rachal A. Lisle

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